

**SUMMARY OF LAWS
RELATING TO HOUSING
AND URBAN
DEVELOPMENT IN THE
RUSSIAN FEDERATION**

Prepared for



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ABSTRACT

The body of law relating to housing and urban development in the Russian Federation is in a state of flux as legislators enact laws to reflect the country's changing political and economic goals. During this dynamic period, there is much uncertainty in the law. While the basic framework exists, there are many internal contradictions and incomplete areas.

This "Summary of Laws" identifies the fundamental Russian laws and implementing regulations related to housing and urban development. A description of each law defines the date of enactment and contents of the law. Laws that are currently under development are noted as such. Laws that are appearing in this report for the first time since the last bi-annual report (September 1996) are also noted. The reader should note that this "Summary of Laws" is the seventh in a series of semi-annual summaries (beginning in March 1993) that are produced by the Urban Institute under the United States Agency for International Development Housing Sector Reform Project.

SUMMARY OF LAWS RELATING TO HOUSING AND URBAN DEVELOPMENT IN THE RUSSIAN FEDERATION

RUSSIAN FEDERAL LAW

The following is an outline of the basic laws of the Russian Federation, existing and in development, which are relevant to the housing and urban development issues addressed in the Urban Institute's technical assistance mission to Russia and the City of Moscow.

I. COMMERCIAL LAW, GENERALLY

A. Passed/Issued

1. *Law On Joint Stock Companies, December 26, 1995*

This long-awaited law passed in the State Duma in November 1995 and was signed into law by President Yeltsin in December 1995. This is a fundamental commercial law which builds on principles established in the Civil Code regarding the creation of joint stock companies, liability and taxation issues, the rights and responsibilities of shareholders, and liquidation.

2. *Code of Civil Procedure of the RSFSR, June 11, 1964, as amended*

The Code of Civil Procedure addresses the procedural issues of enforcement of secured claims. The 1964 Code was substantially amended in 1988, 1992 and the beginning of 1996. The 1996 amendments in particular mark a substantial departure from the original 1964 Code whose anachronistic provisions were entirely unsuitable to the current reforming judicial system in Russia. The 1996 amendments discard many of the socialist principles of the Code, which emphasized the court's role in protecting parties' rights, in favor of an emphasis on a truly adversarial system with each party responsible for protecting their own interests. The amended Code contains a "loser-must-pay" scheme, requiring losing parties pay the winner's reasonable attorneys fees. The Code also contains expedited procedures for certain kinds of monetary disputes, such as wages and amounts due under a written contract.

The Code of Civil Procedure governs the civil courts' activities, tribunals which primarily deal with cases where one of the parties is an individual. Disputes between legal entities generally are heard in the state arbitration tribunals. Proceedings in these tribunals are governed by the Arbitration Procedural Code of the Russian Federation.

3. *Russian Federation Civil Code Part I, enacted by the Russian Federation Law On Introduction into Force of the Russian Federation Civil Code Part I, November 30, 1994*

Part I of the Civil Code passed in the State Duma on October 21, 1994. The Federation Council overran its constitutionally designated period to vote on the law, and the Russian Federation President signed the bill into law without the explicit approval of that house of the legislature.

Part I contains the General Part of the entire Civil Code, including definitions of legal entities and "immovable and movable property" (art. 130). Section 1 of the Code confirms the



federal requirements of registration, a unified state registry under the institutions of justice (art. 131), and notarization (arts. 163-65) of real estate transactions. Section 2 of this law lays out property rights, including property rights in land. Chapter 17 on land rights will not, however, go into effect until a Land Code is passed. Civil Code Part I, Section 3 contains important provisions for Russian finance law, outlining the fundamental law of pledge, guaranty and other modes of assuring repayment of debt. Transfer of rights and responsibilities under a contract are also covered in Section 3.

4. *Russian Federation Code Part II, February 1996*

Part I of the Civil Code was enacted November 30, 1994 (see I.A.3). The remainder of the revised RSFSR Civil Code has been divided into two parts. The division is largely for political reasons. Part II deals with various contract and commercial matters, including leasing, franchising and barter/exchange, marriage and family law, purchase and sales, leasing, banking, agency, trust, and insurance. Part II was approved by the Duma on the first reading in fall 1995, and on the second and third readings in December. President Yeltsin signed Part II in early February and law went into force March 1, 1996. Part III, dealing with matters involving intellectual property, inheritance, and international private law, remains in draft form and no date has yet been scheduled for Duma consideration.

5. *The Russian Federation Fundamental Legislation On the Notary System, February 11, 1993*

The law on notaries sets out the role and qualifications required for public and private notaries. Notaries must have degrees in law. They play a role in property law in that they certify transactions, issue proof of the ownership rights of spouses to their common property, attach and lift prohibitions on the alienation of property, hold money or securities in "deposit" to secure repayment of a debt, confirm evidence in court and administrative procedures, and help in negotiating promissory notes.

II. **MORTGAGE LAW AND HOUSING FINANCE**

A. **In Development**

1. *Draft Russian Federation Law on Mortgage*

Numerous drafts of the Mortgage Law have been submitted and rejected by the Duma since 1993. A second reading of a draft came close to passage in the Duma in November 1996. There were 219 votes for the law and only three votes against. However, the number of deputies at the vote did not reach quorum; 226 is the minimum number of votes required for passage. Since November other drafts of the law have been rejected by even wider margins. One of the major controversial points impeding passage of the law is the opposition many deputies have to mortgaging agricultural land. The most recent reading of the draft, scheduled for February 14, 1997, was postponed.



According to the Civil Code Part I (art. 334(2)), this mortgage law will govern pledges of land parcels, enterprises, buildings, other improvements, apartments and other immovable property. The general rules on pledge contained in the Civil Code will govern where there are not specific rules in the law on mortgage or the Civil Code.



B. Passed/Issued

1. *Government Resolution No. 937 On Provision to Citizens of the Russian Federation in Need of Improving Their Housing Conditions of a Free of Charge Subsidy for Construction or Purchase of Housing*

This resolution implements Presidential Decree No. 430 (see Presidential Decree No. 430 II.B.2). The decree provides that housing subsidies will be provided to citizens "in need of improved housing conditions" for purchase of existing housing, financing of individual housing construction, or financing of an apartment in a near-complete (70% completed) multifamily building. The federal government from the federal budget will provide subsidies to certain categories of citizens (retired military, victims of Chernobyl, certain government officials, etc.). Other citizens will receive subsidies from subject or local governments or enterprises/organizations/military units, depending upon their circumstances. The subsidy is in the form of a certificate valid for six months. The subsidy-holder must open a targeted account with a competitively-selected bank authorized by the government to accept the subsidy. The decree contains formulas for determining the appropriate subsidy amount for different categories of subsidy-holders.

2. *Presidential Decree No. 430 On State Support of Citizens in Construction and Purchase of Housing, March 29, 1996*

This decree provides that certain citizens "in need of improved housing conditions" are entitled to receive a non means-tested subsidy for purchase of existing housing or construction of new housing. The subsidy may be used for new construction financed through a shared participation arrangement or self construction, although certain limitations on the subsidy's use apply in these circumstances. Certificates are allocated to qualified households for six months during which time the household must open a targeted account with a qualified bank to which the subsidy payment will be made. The decree calls for the adoption of additional legislation to (1) develop a competitive procedure for selecting banks authorized to service the subsidies; (2) define more explicit regulations on conditions for receiving and using subsidies; and (3) draft a federal law exempting households that receive subsidies from paying a notary fees when executing contracts for purchase of a unit bought with subsidy funds. The Government passed regulations implementing this decree in August 1996 (see Government Resolution No. 937 II.B.1)

3. *Presidential Decree No. 293 On Additional Measures on Development of the Mortgage Lending System, February 28, 1996*

In the absence of a mortgage law and law on registration of immovables this decree was enacted to spur development of the mortgage lending market by clarifying a number of legal issues pertaining to mortgage contracts and registration. The decree relies heavily on provisions of the Civil Code, often incorporating it by reference and in some cases quoting it almost verbatim. The decree complements the Civil Code provisions on pledge with additional provisions on mortgaging property held in common joint ownership (applicable to condominiums), a requirement that the appraised value of the property be included in the mortgage contract, and rights on assignment of mortgages. The decree also calls for the creation of the Commission on



Real Estate and Appraisal to provide an oversight role for the unified (land and structures) registration system called for in the Civil Code.

4. *Government Resolution No. 1010 On Federal Agency of Mortgage Housing Lending, August 26, 1996*

In accordance with Government Resolution No. 753 (the "Your Own Home" Program) from June 1996 (see III.C.3), this resolution provides that the Federal Agency for Mortgage Lending will be established as an open joint stock company with controlling shares owned by the state. The Ministry of Finance will contribute 450 billion rubles (approx. \$90,000) as start up capital for the Agency. This resolution names the Board of the Directors of the Agency, including the Minister of Construction, First Deputy Minister of Finance, and representatives from several state and private banks. Thus far, the Ministry has contributed 19 million rubles.

"Your Own Home" provides that the Agency should be created and lists its main tasks as 1) development of standards and procedures for long-term mortgage lending; 2) purchase of long-term mortgages from commercial banks; and 3) issuance of government-backed securities secured by mortgage.

5. *Russian Federation Government Securities and Exchanges Commission (SEC) Decree No. 2 confirming Instructions On the Procedure for Issue, Circulation and Redemption of Housing Certificates, May 12, 1995*

This decree concerns the housing certificate market. It defines a six step procedure for issuing housing certificates, including the requirement of filing a prospectus with a registering agency which reserves the right to terminate or stop the issue for violation of issue procedure. An "issuer" may be any Russian legal entity with the right to build housing and the right to a land plot allocated for a building or a legal entity to whom these rights are assigned. A "professional mediator" may sell the certificates. A "housing certificate" is defined as a means to finance housing construction and purchase. The procedure would be as follows: (1) an issuer makes a decision to issue housing certificates; it then has 60 days to register from the date of that decision; (2) during these 60 days, the issuer makes up a prospectus, a fill-in-the-blank sample of which is appended to this Decree (App. 1); (3) the state registers the issue; (4) forms are created; (5) the issue is promoted and (6) sold. The procedure for the issuer's making good on the certificates is also regulated by this Decree. Issues must be backed by a guarantor, either a bank, insurance company or other company with the permission of the SEC. See also Presidential Decree No. 1182 (II.B.10).

6. *RF Government Decree No. 713 On Confirmation of the Rules for Registration and Crossing Off of RF Citizens on the Registration Book by Place of Staying or Residence in the Borders of the Russian Federation and the List of Official Persons/Entities Responsible for Registration*

This Governmental Decree signed by Prime Minister Chernomyrdin confirms rules for registration of permanent and temporary residences within Russia. These rules replace the *propiska* rules which were declared unconstitutional by the Constitutional Court in various rulings.



A residence registration will be proof of living in a residential unit which will ensure a family member of the owner the right to continue to live in the unit even if it is sold by its legal owner or through foreclosure. Article 292 of the Russian Federation Civil Code provides that *family members* of those who would sell or otherwise alienate their housing maintain their rights to use such housing despite the transaction. This article is of course a significant bar to secured lending on housing.

7. *Presidential Decree No. 478 On Measures for Providing for Guaranteed Receipt of the Revenues from Privatization by the Federal Budget, May 11, 1995*

In point 7 of this decree, the President instructs the RF Government to devise a means for issuing paper reflecting Federal Government debt which can be used to purchase land by enterprises.

8. *Presidential Decree On Housing Credits, No. 1180, June 10, 1994.*

This decree sets out rules to encourage private sector mortgage lending to individuals and developers. The decree states that banks may grant three types of housing credits to individuals and legal entities: short or long term credit for purchase or improvement of land for housing construction; short term credit for housing renovation or construction; long term credit for housing purchase. The decree contains general provisions on preconditions for issuing credit, describes the type and contents of agreements between lenders and recipients of the credit, lists what types of property may be used as collateral (and requires insurance on the collateral), and includes instructions on action to be taken in the case of borrower default or use of funds for unintended purposes.

9. *Presidential Decree On Measures to Provide for Completion of Unfinished Apartment Houses, No. 1181, June 10, 1994.*

Apartment buildings left incomplete due to lack of federal funding or supply of material may be sold by the original contracting agency for the project at auction or tender to raise funds for completion of construction or for sale. The law stipulates which federal agencies are responsible for deciding the buildings that will go up for auction or tender. The decree also contains detailed provisions on organizing and carrying out auctions and tenders.

10. *Presidential Decree On Issue and Circulation of Housing Certificates, No. 1182, June 10, 1994.*

To encourage the use of private investment in housing construction this decree permits registered housing developers to issue housing bonds to the public. The decree contains detailed provisions on drafting and issuing housing bonds and the rights and obligations of bond holders and issuers.



11. *Presidential Decree No. 2281 On Development and Introduction of Non-Budget Forms of Investing Into the Housing Sector, December 24, 1993*

This decree, prepared by a joint committee of Gosstroï and the Ministries of Finance and the Economy, and issued pursuant to the Fundamental Principles of Federal Housing Policy (see III.C.17), (1) requires the implementation of further regulations governing private mortgage lending; (2) authorizes a new federal agency ("Federal Agency for Mortgage Lending") authorized to regulate the mortgage banking industry and engage in secondary market activities; (3) promotes local and regional housing development corporations ("Foundations for Housing Development"); (4) establishes a down payment assistance program; (5) requires issuance of regulations governing "housing notes" or other types of housing securities now gaining favor in the Russian market; and (6) requires the creation of a unified real estate registration system.

12. *RF Government Decree 1278 On Approval of the Regulations on Allocation of Allowances (Subsidies) Free of Charge for Construction or Purchase of Housing to Citizens in Need of Improved Housing Conditions, December 10, 1993 - repealed by Government Resolution No. 937 (see II.B.1)*

These regulations specify the procedures for allocation of subsidies for construction and purchase of housing to certain categories of citizens in need of improved living conditions (i.e. on the waiting list for new housing). Subsidies for certain categories of citizens are funded through the Russian Federation budget (invalids, veterans, refused and forced migrants, victims of the Chernobyl nuclear disaster, etc.). Other citizens in need of improved living conditions will receive subsidies funded by the local executive bodies from local budgets. The formula used to calculate the subsidy is contained in the regulations.

13. *Russian Federation Law On Pledge, May 29, 1992*

This law formed the basis for secured financing transactions, including pawn, chattel mortgage and real property mortgage. It is now completely eclipsed by the sections on Pledge in the Civil Code Part I (see I.A.3). In oral and written commentary, Russian experts have said that this law was de facto annulled by enactment of the Civil Code Part I.

III. HOUSING

A. New since last report (September 1996)

1. *Ministry of Construction Order On Approval of Instructions on Calculating Naim Payment Rates and Deductions for Major Overhaul Included into the Rates of Payments for Housing Maintenance and Repair of the Municipal and State-Owned Stock, December 12, 1996*

This order implements Government Resolution No. 707 passed in July 1996 (see III.C.1). The order contains instructions for local governments to calculate tenant rent payments, including standard maintenance and repair costs as well as capital repairs and costs in the calculation.



Local governments must also figure unit quality and location into payment calculations, a major departure from the methods traditionally used to determine tenant payments in public housing.

B. In Development

1. Amendments to the Law on Housing Privatization (see III.C.15)

These amendments were passed in the State Duma on the second reading in July 1996. They lift the ban on leasing of residential space in government housing for commercial use; a practice which has retarded development of that market. Subject level governments will be allowed to set time limits on free housing privatization once half of the stock is privatized. The amendments passed in the Duma on a third reading in October 1996, but were rejected by either the Federation Council or the President.

2. Revised Housing Code

The revised Housing Code of the Federation will integrate and further refine the principles set out in the Fundamental Principles of Federal Housing Policy (see III.C.17). A draft prepared by the Ministry of Justice, with the participation of the Ministry of Construction, was published in October 1994, in the mass media for consideration by the general public.

After receiving many criticisms of the draft from the Subjects of the Russian Federation and branches of Government, the Government nonetheless approved the Code and submitted it to the Legal Department of the Office of the President. This Office decided to take part in the drafting and to have a special committee be appointed by the President's Office for this purpose. A revised Ministry of Justice version is now in the Legal Office of the President.

C. Passed/Issued

1. Government Resolution No. 707 On Regulating the System of Rent and Utilities Payment, June 18, 1996

This resolution extends the period of phased-in rent increases from five to ten years (to 2003), instructs local governments to include the cost of capital repairs in tenant payments, and provides that tenant payments in public housing should reflect unit quality and location. Instructions implementing this resolution were enacted in December 1996 (see Ministry of Construction Order III.A.1).

2. Presidential Decree No. 420 On Development of the Federal Targeted Program "Your Own Home", March 23, 1996

With the stated goal of improving housing affordability this short decree calls upon the Russian Federation Government to develop a program (called "Your Own Home") to devise more economical construction methods, develop long term financing instruments for developers, develop a law (by May 1996) exempting citizens from taxes on housing until all loans on the housing are paid, and provide a certain amount of state funding for construction lending to



developers. The decree also recommends that subject level governments improve construction methods and materials, make financing available to developers, and improve the process of free allocation of land plots for individual housing construction.

3. *Government Resolution No. 753 On Federal Targeted Program “Your Own Home”, June 27, 1996.*

This resolution was enacted in response to Presidential Decree No. 420 (see III.C.2). The state goal of the program “Your Own Home” is to create the organizational, legal, and financial conditions to provide adequate and affordable housing by increasing the availability of housing finance and reducing housing construction costs. The program is divided into three stages and covers the period 1996 to 2000. The Ministry of Construction will oversee program implementation. Federal funds will only be used for research and development, developing federal laws, supporting pilot projects, and promoting loans to developers. The program relies heavily on the private lending market through mechanisms like housing bond schemes, contract savings plans, and traditional mortgage lending to finance housing purchase and construction over the next five years.

4. *Presidential Decree No. 432 On Development of Competition in Maintenance and Repair of the State and Municipal Housing Stock, March 29, 1996*

The decree calls upon subjects of the Federation and local governments to transition from their current practices of selecting maintenance providers (usually state firms through exclusive contracts) to a competitive process. The decree also provides that the federal government will supervise contract compliance between service providers and the government, determine the appropriate transition period for introducing competitive procedure, develop recommendations for competitively bidding maintenance contracts in non-residential premises, and propose a law to the Duma on VAT exemptions for housing maintenance and repair providers.

5. *Presidential Decree On Amendments to the Program HOUSING, Spring 1996*

Since the basic policy goals of HOUSING have not changed, these amendments will only update the original June 1993 document rather than define a new policy agenda. This decree reports in general terms on accomplishments to date regarding the goals of the original HOUSING program and sets goals, mainly for housing construction, for the next program phase. It also contains a list of major legislative and regulatory acts and a time frame for their enactment, which must be passed in order to implement the goals of the program.

6. *Russian Federation Law on Amendments to the Law on Fundamental Principles of Federal Housing Policy, January 1996, see III.C.12*

This law was passed by the Duma on December 8, 1995 and signed into law by President Yeltsin in January 1996. The amendments deal primarily with provisions in Article 15 of the law which stated that rents would be increased to cover full operating costs over a five year period



beginning in 1994. The amendments (a) extend the time period to achieve full cost recovery for another five years and (b) selectively reinstate rent controls in state housing units by stipulating that households whose per capital income is less than the established minimum monthly wage will not have a rent greater than one-half minimum wage.

7. *Russian Federation Resolution No. 1086 On the State Housing Inspection of the Russian Federation, September 26, 1994*

In coordination with state housing inspection offices at the subject level the Housing Inspections office is responsible for setting standards for use, maintenance and repair of publicly and privately owned housing and promulgating normative documents on housing standards. Regional inspection offices will ensure compliance with the federal standards and possess enforcement authority against violators.

8. *Gosstroj Decree No. 18-24 On Approval of Regulations for Holding Tenders Among Housing Maintenance Companies for Maintenance of State and Municipal Housing Stock, April 1, 1994*

This decree establishes the procedures for competitive selection of maintenance companies for construction, reconstruction or maintenance of housing in the state or municipal housing stock.

9. *Presidential Decree No. 8 On Use of Socio-Cultural and Communal-and-Everyday Service Facilities of Privatized Enterprises, January 10, 1993*

This decree excludes enterprise housing from the assets which may be privatized by an enterprise, and retains such housing as state property. It also assures local governments of funding for maintaining such housing if transferred to the local government.

10. *Decree of the Russian Federation Council of Ministers (RF Government) No. 935 On Transition to a New System for Rent and Communal Services Payment and Procedure for Providing Compensation (Subsidies) for Rent and Communal Services Payments, September, 1993 as amended by Council of Ministers Resolution on Additions to the Decree of the Council of Ministers of September 22, 1993, December 23, 1993 - **repealed by Resolution No. 707 (see III.C.1)***

This decree provides for (1) gradual increases in rents and payments for communal services in social housing, and (2) implementation of a housing allowance program. Localities are allowed to determine the pace of reform measures to raise charges for rents and communal services within their jurisdictions.

11. *RF Government Decree On Approval of the Tentative Regulations on Free Privatization of Housing in the Russian Federation, October 25, 1993*



This law contains provisions and procedures to be followed in privatizing state and municipal housing and the rules for maintaining and repairing privatized housing units. The law states the policy contained in other housing laws that government housing should be transferred to private hands free of charge. Owners in privatized units have the right to own, use, exchange or sell their units. The law states that after privatization unit owners are responsible for the expense of maintaining and repairing their units. They may contract with the state maintenance firm or a private company. Buildings will continue to be maintained by the state management company that previously maintained the building unless the unit owners hire a private firm.

12. *RF Government Resolution On Approval of the Regulations on the Procedure of Transfer of Incomplete Residential Buildings for Completion of Construction and for Sale, October 23, 1993*

These regulations establish the procedure for transferring from the state to private entities incomplete residential buildings for completion of construction and/or sale. The regulations establish that the transfers will take place through competitions and contain the procedures that must be followed in conducting the competitions.

13. *Constitution of the Russian Federation, December 12, 1993*

At a national referendum on December 12, 1993 the Russian population voted to adopt a new Russian Federation Constitution. Article 40 of the new Constitution reaffirms the right to housing and states that the federal and lower levels of government should encourage housing construction and "create the conditions for the exercise of the right to housing." Article 40 also states that housing should be provided free or at affordable cost to low-income and other citizens specified in the law (generally, veterans, handicapped, elderly, etc.) within established norms.

14. *RSFSR Housing Code, confirmed by the RSFSR Supreme Soviet June 24, 1983, with amendments to July 6, 1991; Fundamentals of Housing Legislation of the USSR and the Union Republics, June 24, 1981*

The basic housing legislation of the RSFSR and USSR survives and serves as a main sources of law for issues in the housing sector. This housing legislation will be replaced by the federal Housing Code presently in development and discussed under III.B.2.

15. *Law of the RSFSR On the Privatization of the Housing Stock in the RSFSR, July 4, 1991, as amended*

The Privatization law sets out the basic principles for privatizing state, municipal and enterprise housing. The law was amended by the "Law of the Russian Federation On Introducing Changes and Amendments into the Law of the RSFSR On Privatization of the Housing Stock in the RSFSR, December 24, 1992.

16. *Russian Federation Decision No. 59 On Measures Concerning Sale of Uncompleted Units, February 3, 1992*



This decision provides for auctions of uncompleted social housing projects to enterprises, organizations, cities and foreign investors, supervised by the State Committee on Management of the State Property.

17. *Law On Fundamental Principles of Federal Housing Policy, December 24, 1992*

This law sets out the main policy objectives and role of the federal government in the housing sector. It addresses such issues as housing allowances; increasing rents and utility charges; condominium and other common ownership structures; and rights of tenants in public and private housing. It is the framework for development of the new federal Housing Code.

IV. CONDOMINIUMS

A. Passed/Issued

1. *Law on Homeowners' Associations, May 24, 1996*

This law restates much of the contents of the 1993 Presidential decree (see IV.A.4, but is more comprehensive. It establishes that condominiums may be formed in existing buildings where there are at least two owners, newly constructed or reconstructed buildings, housing cooperatives, and housing construction cooperatives where at least one member's share is fully paid. The law defines ownership relations among owners within the association and the rights and responsibilities of owners; establishes procedures for forming and operating condominiums; requires that the association be registered and outlines registration procedures; allows condominium associations to use the building as collateral of credit; provides that buildings currently receiving subsidies will continue to receive them; clarifies the actions of the association regarding management of the property; and provides for the dissolution of the association.

2. *Law of Privatization of the Housing Stock in the RSFSR (see III.C.15)*

The Privatization Law establishes the basic principle that privatized apartments are to be held in individual ownership and the common areas and facilities of buildings are to be held in joint ownership of the apartment owners.

3. *Fundamental Principles of Federal Housing Policy (see III.C.17)*

The Fundamental Principles of Housing Policy explicitly recognize the condominium form of ownership and permit local governments to enact appropriate regulations governing condominium associations.

4. *Decree No. 2275 of the Russian Federation President on Approval of the Provisional Regulations on Condominiums, December 23, 1993*

These provisional regulations were issued by Presidential decree pursuant to the authority granted in the Fundamental Principles of Federal Housing Policy (see III.C.17). The regulations



govern the creation and operation of legal entities called "condominiums" which are created for the purpose of building and managing jointly owned housing projects.

5. *Russian Federation Civil Code Part I (see I.B.3)*

The Civil Code with its explanation of property rights and formation of legal entities builds the foundation for the Condominium Law. Article 291 in particular provides for housing associations to maintain multi-family buildings as non-commercial (i.e., non-profit) entities acting in accordance with a still to be passed law.

V. LAND

A. In Development

1. *Revised Land Code of the Russian Federation*

Several versions of a revised land have been considered and rejected by the Duma in the past several years. The most recent draft, sponsored by the agrarian factions within the Duma, was adopted by the Duma on the third reading, but rejected by the Federation Council in August 1996. The Duma was short 29 votes to override the Federation Council's veto, bringing to an end the agrarian factions two year struggle to see their vision of land relations enacted in the Land Code. The draft was rejected by the reform-minded Federation Council for reasons similar to the failure of earlier drafts. The draft allowed subject-level governments to decide the legal forms of land tenure with their territories; violated the Constitutional right of private property ownership; prohibited private ownership or mortgage of farmland; contained an exhaustive list of grounds for fining land users, terminating land rights and confiscating land (including failure to use the plot); did not guarantee market rate compensation when land is confiscated; and contained a prescriptive approach to property rights and transactions.

A conciliatory commission made up of Duma and Federation Council deputies is currently working on the Land Code to resolve the points of dispute. The Duma is expected to consider this draft in upcoming months.

B. Passed/Issued

1. *Presidential Decree No. 337 On Realization of the Constitutional Rights of Citizens to Land, March 7, 1996*

This decree deals primarily with agricultural land. Residents on state farms will receive title to the plots of land for which they previously were granted use rights. Additionally, citizens who obtained plots of land in lifetime hereditary possession before 1991 for housing or dacha construction, subsidiary farming or gardening have the right to full ownership rights in the land. Ownership means the right to use, sale, gift, bequeath, lease, or contribute the share to an agricultural enterprise. The decree contains a procedure for allocating title to the new owners, requires registration of ownership rights, and generally outlines the rights owners possess.



2. *State Tax Service of the Russian Federation Instructions No. 29 for Application of the RF Law On Payment for Land, April 17, 1995, amended August 3, 1995*

These instructions are based on the RF Law On Payment for Land (see V.B.7). In Russia, use of land is never gratuitous, according to these instructions. Individuals and legal entities pay either an annual tax on land owned, a rent payment for land leased, or a standard price for land purchased, redeemed or collected out of collateral for a bank loan. The goals of such payments are to encourage rational use of land, its preservation and development, especially in less developed areas, an increase in fertility, better allocation of socio-economic benefits from the use of land of different qualities, and the formation of special funds for financing these objectives. To meet these goals, the taxes are not based on the income produced by the land users, but on a stable price per square unit of land determined each year. The August 1995 amendments provide that the managers of housing cooperatives and associations present their payments to the administrative region where the land plot of the housing sits, until the land is given to the members of the cooperative or association.

3. *Presidential Decree No. 478 On Measures for Providing for Guaranteed Receipt of the Revenues from Privatization by the Federal Budget, May 11, 1995*

In point 7 of this decree, to increase the revenues flowing to the federal budget from land privatization, the President sets a new normative rate for calculating price for purchase and sale land plots. The new multiplier is 10 times the square unit land tax rate.

The RF State Property Committee issued RF GKI Letter No. SB-2/6388, July 18, 1995, to confirm the presidential decree and explain to territory property committees and funds that the new rates take effect for all sales after the Presidential Decree took effect (May 17) and that the tax rate to be used is the rate on the date of the application for purchase was received.

4. *Fundamental Principles of the State Program for Privatization of State and Municipal Properties, enacted by Presidential Decree No. 1535, July 22, 1994*

Article 4 of these Principles, entitled "Privatization of Immovable Property" provides for the privatization of land plots on which private or privatized enterprises are located. Enterprises may demand privatization of land plots under them (arts 4.9 and 4.10), if they have acquired possession of the land plots in a approved privatization procedure, usually involving some competition (art. 4.5). Local governments may refuse to sell land parcels, if there is a federal law permitting this (art. 4.2). Sale of undeveloped land designated for commercial use will be done by auction only, art. 4.3.

5. *Russian Federation Government Decree No. 1204 on the Procedure for Determining Normative Prices for Land, November 3, 1994*



This Decree, based on the RF Law On Payment for Land (see V.B.7) changes the method for pricing land. It declares that the normative price of land will be 200 times the tax rate for a square unit of a particular parcel. RF Subject Administrations may increase the price of a unit by a coefficient, but not increase the total price by more than 25 percent of the normative price. The price of land should not be more than 75 percent higher than “market price” for the particular parcel. This decree led to a 400 percent increase in the standard price of land, which temporarily discouraged land privatization in St. Petersburg despite the October Mayoral Decree allowing enterprises to privatize land on they lease.

6. *Russian Federation Civil Code Part I, enacted by the Russian Federation Law on Introduction into Force of the Russian Federation Civil Code Part I, November 30, 1994*

Section 2 of this law lays out property rights, including property rights in land. Chapter 17 on land rights will not however go into effect until a land code is passed according to the enabling act, the Russian Federation Law on Introduction into the Force of Law of Part I of the Russian Federation Civil Code.

7. *Law of the RSFSR On Payment for Land, October 11, 1991, as amended February 14, 1992 (amending arts. 6, 8 and 12), June 16, 1992, and August 9, 1994*

This law provides formulas for determining the transfer price, annual tax or lease payment on land transferred to private ownership.

8. *Constitution of the Russian Federation, December 12, 1993*

The December Constitution does not introduce any new concepts in the area of land reform, but incorporates the existing state of the law present in other normative acts. Article 9 states that land and other natural resources can be in private, state, municipal, or other forms of ownership, a change from the previous Constitution which stated all natural resources belong to the state. Article 36 states that citizens and their associations are entitled to hold land in private ownership. This seemingly broad provision is circumscribed by provisions in the 1991 Land Code regarding private land ownership which provides that private land ownership is still only the right of citizens to own plots of land for individual housing or dacha construction, gardening and subsidiary farming. At the same time presidential decrees on the privatization of enterprises establish that enterprises may acquire in fee simple ownership the land under their facilities and may purchase adjacent land for construction. Despite this contradiction in federal law, local administrations, most notably St. Petersburg, have developed procedures for privatizing land for commercial use.

9. *Council of Ministers Resolution No. 503 On Approval of Procedure for Plots of Land Purchase and Sale, May, 1993*

This decree permits the private sale of land plots between citizens for individual garden plots, dachas and individual housing construction. Sales may be arranged directly between



citizens or through auctions with the aid of the local Committee on Land Resources. Prices are to be determined by negotiation or auction. Transfers will be made through a notarized bill of sale in form approved by the State Committee for Land Resources, and must include a survey or plan of the land. All bills of sale are to be registered with the local Land Resources Committee and there will be a transfer tax collected at the time of registration. Implementation of the decree awaits issuance of a Ministry of Finance regulation on collection of the transfer tax.

10. *Presidential Decree No. 480 On Additional Measures for Allotting Tracts of Land to Citizens, April 23, 1993*

This Edict reinforces the earlier decrees requiring local governments to make land available to citizens for private housing construction and garden plots in ownership, lease or life inheritable possession. Local governments are required to (1) inventory land available for distribution, (2) adopt systems for registration of land titles, (3) issue appropriate documents of title, and (4) re-register land rights granted prior to commencement of the land reform program.

11. *Presidential Decree No. 1767 On the Regulation of Land Relations and the Development of Agrarian Reform in Russia, October 27, 1993*

This decree was intended primarily to address the reallocation of agricultural land from the state and collective farms to individual farmers. It accomplishes that goal essentially by providing for the issuance of shares representing land interests to the collective farmers individually and permitting them to request an in-kind allocation of land or to trade the land shares among themselves. With respect to urban land issues, the new decree appears to clarify and restate some principles that can be found in earlier laws. On its face the decree: defines the concept of "real estate" to include both land and the structures or improvements located on it; authorizes citizens and juridical entities that "own" land to sell or mortgage it freely; establishes a registration system based upon the "Certificate of Title," which is to be issued with respect to each parcel of land and registered with the local komzem (land committee); subjects all disputes concerning land to court proceedings, whereas previously all such disputes were subject to administrative resolution by the local soviet before entry to court was permitted.



12. *RF Government Resolution No. 1272 On Approval of Regulations on Holding Competitions and Auctions on Sale of Land Plots and Other Transactions with Land, December 10, 1993 - **repealed by Presidential Decree No. 2287 (see V.B.13)***

Presidential Decree No. 1767 (see V.B.11), calls for the establishment of uniform procedures for holding competitions and auctions of land plots. The procedures were developed by Rozkomzem in December, 1993 but subsequently repealed.

13. *Presidential Decree No. 2287 On Modifying Land Laws of the Russian Federation to be in Accordance with the Constitution of the Russian Federation, December 24, 1993*

This decree repeals many of the provisions of the 1991 Land Code. It repeals the federal decree on holding competitions and land auctions (see V.B.12), as well as provisions of other minor land laws. The decree eliminates from the Land Code the role formerly played by the local Soviets of Peoples Deputies. Most significantly, the decree repeals many of the procedures for land allocation without replacement provisions.

14. *Presidential Decree No. 301 On the Sale of Tracts of Land to Citizens and Legal Entities During Privatization of State and Municipal Enterprises, March 25, 1992*

This decree authorizes for the first time the sale of land to privatizing enterprises and individuals engaged in commercial (entrepreneurial) activities.

15. *Presidential Decree No. 631 On Procedures for Sale of Land Plots During Privatization of State and Municipal Enterprises, June 14, 1992*

This decree is a refinement and elaboration of Decree No. 301 (see V.B.14). It deals with the sale of land rights to owners of privatized State and Municipal enterprises and to citizens for business ("entrepreneurial") ventures. It provides, under specified conditions, for auctions, applications, and requests for proposals (investment competitions). While it uses the terms "sale" and "ownership," in implementation it is widely interpreted to require the granting of leases (49 years) and permanent rights of use.

16. *Presidential Edict No. 1228 On the Sale of Housing Stock, Plots of Land and Municipal Property for Privatization Checks, October 14, 1992*

This Edict allows privatization vouchers to be used for purchase of (1) housing units from the state stock; (2) municipal enterprises; and (3) land made available for privatized enterprises and other businesses under Presidential Edict No. 631 (see V.B.15).



17. *Law of the Russian Federation On the Rights of Citizens To Acquire As Private Property and To Sell Tracts of Land To Conduct Private Subsidiary Farming and Dacha Economies, Horticulture, and Private Housing Construction, December 23, 1992*

This law permits the private sale of land plots which are used for garden plots, dachas, horticulture and private housing construction, provided the use is not changed. The form of land sales contract is to be approved by the State Committee on Land Resources and Land use ("Roskomzem").

18. *Procedure for Estimating Land Tax Rates From Normative Land Cost, 1992*

This procedure governs implementation of local land taxes and ties local taxes to normative land prices and tax rates established in the Russian Federation Law on Payment for Land (see V.B.7). Taxes are set at average rates depending upon location and use, but averages may be increased by specified coefficients on the basis of certain characteristics (e.g. historical or resort districts). Residential land is taxed at only 3 percent of the rate established for a district or zone.

19. *Presidential Decree No. 2429 On Regulation of Lease and Privatization of Leased Property of State and Municipal Enterprises, October 14, 1992.*

Among other things, this decree establishes the State Property Committee as the lessor with respect to real property owned of state enterprises, and the Property Committee of lower levels of government as lessors of real property owned by enterprises of lower level governments.

20. *Land Code of the RSFSR, April 25, 1991*

This Code sets out the basic rules for land ownership, use and disposition. It has been modified by the recent Constitutional amendments, described above. This Code would be abolished by the new Land Code Draft discussed V.A.1.

21. *Decree of the President of the Russian Federation No. 323 On Urgent Measures to Implement Land Reform in the RSFSR, December 27, 1991*

This decree provides for the privatization of collective farms and the reallocation of surplus agricultural land for non-agricultural purposes. It includes a concept of local government land banks.

VI. PLANNING AND LAND USE REGULATION

A. In Development

1. *Urban Planning Codex*



This codex is meant to implement the broad provisions in the 1992 Fundamentals of Urban Development (see VI.B.2). Several drafts of the Urban Planning Codex have been prepared in recent years but not passed. The current draft under consideration was prepared by Minstroi in Winter 1996. It defines general concepts, contains provisions dealing with different types of land, provides for the administrative structure to oversee the planning process, and describes documents to be used in the planning process. Critics of the draft charge that it lacks clear definitions, continues to overly rely on the centralized Soviet planning mechanism of the master plan, fails to clearly define the delineation of authority for planning between different levels of government, and contains ambiguities about the legal status of zoning.

The first draft was passed in the Duma on a first reading May 24, 1996. In upcoming months, comments from various ministries and experts will be considered by a recently appointed Duma committee and together with Minstroi a new draft will be produced. Substantial modifications between the first and second drafts are expected. The Codex was scheduled for a reading in the Duma in February 1997, but was postponed at the request of one of the deputies in order for Minstroi to make several changes. The Duma will likely consider the modified draft in Spring 1997. However, given the current Duma's unfavorable attitude toward land reform issues, it is quite possible no action will be taken on the draft this year.

B. Passed/Issued

1. *Government Decree No. 346 On The Land Reform and Land Resources Committee of the Russian Federation, May 26, 1992*

This decree describes the authority of The State Committee on Land Reform and Land Resources ("Roskomzem") and its local branches in the sphere of land allocation and land use regulation.

2. *RF Law On The Bases For Urban Development in the Russian Federation, July 14, 1992*

This is a law of fundamental principles. It provides a general structure for urban planning activities of the federal and local governments and addresses the allocation of land by governments for private development enterprises.

VII. LAND AND PROPERTY REGISTRATION/CADASTRES

A. In Development

1. *Draft Law on the State Registration of Rights to Immovables and Real Estate Transactions*

A draft of the law was most recently adopted by the Duma on a third reading in July 1996. The main provisions of the law are mandatory registration of property rights (as stipulated in the Civil Code); creation of a single, unified registration system (i.e. land and structures) countrywide implemented by local registries under the supervision of the Ministry of Justice; each defined



object of real property (land, building or portion of a building) has a registration case organized by cadastre number containing basic physical and legal information on the object; title reports may be obtained from the registrar for a fee; and registration is effective from the date the application is accepted, although registration itself may take up to 30 days.

The Federation Council rejected the draft. A redraft of the law is currently in a Duma conference committee. Most of the opposition to the rejected draft is political, not technical. There are disputes within government over which entity should be given the primary role for the registration system. For instance, one of the major changes between the July draft and the redraft is that the redraft gives a more important role to the Commission on Real Estate and Real Estate Appraisal (see Decree 293 II.B.3).

B. Passed/Issued

1. *On Additional Measures on Development of Mortgage Lending (see II.B.3)*

The decree confirms that property rights must be registered in accordance with the Civil Code; provides model forms for registering rights and transactions; establishes the Federal Commission on Real Estate and Real Estate Appraisal to provide an oversight role for the unified state registry; calls upon the Government to develop a unified registration procedure within one month; requires the Government to approve rules for completing registration forms and regulations for public access to registration records within one month; and calls for the development of a phased procedure for formation of a unified state registry within two months. The responsibility of the Commission was recently transferred to GKI. However, but the majority of the calls for action contained in this law have not been fulfilled.

2. *Decree No. 2130 of the Russian Federation President On State Land Cadastre and Registration of Documents on the Rights to Real Property, December 11, 1993*

This decree calls for the State Property Committee (GKI) and the State Committee on Land Resources and Land Management (Rozkomzem) to jointly draft a uniform system for land registration of rights to immovable property to be administered by Rozkomzem. Rozkomzem has already drafted a "Land Book" which is presently used for registration in many Russian localities. The intention of this decree was superseded by enactment of the Civil Code, Part I which creates a national registry of immovable property.

3. *Land Code of the RSFSR (see V.B.20)*

The Land Code establishes in the Federal Government the responsibility for creation and maintenance of a nationwide land cadastre, focusing primarily on physical characteristics and economic use.

4. *Government Decree No. 346 On The Land Reform and Land Resources Committee of the Russian Federation, May 26, 1992*



This decree outlines the role of Roskomzem in creating the State land cadastre.

5. *Russian Federation Government Decree No. 622 Statute On the Management Order of the State Land Cadastre, August 25, 1992*

This governmental decree is essentially an administrative order implementing the cadastral provisions of the Land Code. It includes the requirement to register information on the "juridical status" of land, including rights of ownership and lease and permitted uses. The actual work of creating and maintaining the cadastre is delegated to local government.

VIII. FEDERALISM/INTERGOVERNMENTAL RELATIONS

A. Passed/Issued

1. *RF Law on General Principles of Local Self-Government in the Russian Federation, signed on August 28, 1995, to go into effect upon publication.*

President Yeltsin signed into law the RF Law on General Principles of Local Self-Government in the Russian Federation, August 28, 1995, and it went into effect upon publication September 1, 1995. This law will replace much of the former RF Law on Local Self-Government (see VIII.A.2). In particular arts. 1-46, 77-79 and 87-96 of the latter law are annulled, leaving chapters on Authority of Rural Administrations, Regional Administrations and City Administrations and on Fundamentals of Organizing Management of a City and the Guarantees of the Rights of Local Self-Government still in force.

This law also replaces laws on election of executive heads and legislative representatives to the local governments. In accordance with the RF Constitution, this law will provide the general principles of "local self-government." Where it conflicts with other normative acts, it will prevail, and all levels of government are asked to bring legislation into accord with this law in the three months following its publication.

2. *Law of the RSFSR On Local Self-Government in the RSFSR, July 6, 1991, as amended by RF Law No. 3703-1, October 22, 1992 and RF Presidential Decree No. 2265 On Guaranties of Local Self-Government in the Russian Federation, December 22, 1993*

The Law of Local Government is essentially a "home rule" enabling act and code of political rights and administrative procedure applicable to municipalities and Russian Federation Subject governments (e.g., oblast level). This law which originally created parallel local apparatus of power (Soviets) and of administration (Administrations) has been significantly amended to provide only for the creation of Administrations which will fulfill the dual functions of the former apparatus.

3. *Law On Krai and Oblast Soviets of Peoples' Deputies and Krai and Oblast Administration; March 5, 1992*



The krais and oblasts are independent governments of general jurisdiction that are not Republics. This law addresses the same issues with respect to these governments as are addressed with respect the Republics' powers in the Federal Agreement, but also addresses rights of political participation and administrative procedure in these jurisdictions.



IX. REALTORS, APPRAISERS, PROPERTY MANAGERS; LICENSING

A. New since last report (September 1996)

1. *Government Resolution No. 1407 On Approval of Regulations on Licensing Realtor Activity, November 23, 1996*

This resolution establishes that any legal entity or individual engaged in real estate brokerage activities must be licensed. Licenses are issued by executive bodies of subjects of the Federation. The State Property Management Committee of the RF maintains the registry of licensed realtors. The resolution lists the documents that must be submitted to apply for a license, specifications on the contents of the license, conditions for license revocation, and mandatory information that must be entered into the license registry. The cost of obtaining a license is 100 times the minimum wage. Licenses are valid for three years and may be renewed. The resolution does not govern appraisers, but states that a licensed real estate broker may not also be an appraiser for the same transaction.

B. In Development

1. *Draft Law on Licensing Some Types of Activity*

This draft provides that certain types of commercial activity will be government regulated through a licensing process. Either government organizations or authorized licensing bodies will issue licenses and monitor licensee compliances with relevant laws. This draft contains provisions on which level of government will monitor which type of activity; describes basic license format and contents; and describes general procedures for issuing, renewing, suspending and revoking licenses. "Real estate activities" is one of the categories of activity that will require a license under this law.

X. TAXATION

A. In Development

1. *Draft Russian Federation Tax Code*

The Ministry of Finance is currently in the process of writing a new Tax Code. The Code is divided into four parts. Part I, which lays the legal basis and describes the general process of taxation. It also reduces the number of taxes (from 150 to 30) and creates tax courts. Parts II, III, and IV, are on federal taxes, regional taxes and local taxes, respectively.

B. Passed/Issued

1. *Law on Fundamentals of Russian Federation Taxation System, December 27, 1991 as amended*



This law outlines the general principles underlying the tax system of the Russian Federation. It states that establishing and abolishing taxes and granting exemptions is exclusively within the domain of the federal government, unless express taxation authority is granting to another entity or level of government by law (art. 1). The federal government has the authority to determine how revenue will be allocated to the budgets of various level governments (art. 9). Subjects of the Federation may only grant additional exemptions "within the sums of the taxes entered into their budgets in conformity with RF legislation" (art. 1). Chapter II of the law enumerates the types of taxes levied in the RF and specifies which taxes are federal, subject or local level and to whose budget the revenues are allocated.

2. *Russian Federation Income Tax Law on Natural Persons (Personal Income Tax), December, 1991 as amended.*

This law was originally enacted in December 1991 and has been heavily amended by presidential decree and Duma resolutions since that time. Several provisions of the law are relevant to housing. The law provides that proceeds from the sale of a residential unit are taxed at the same rates as income from salary and wages, subject to a tax deduction equivalent to 5,000 times minimum monthly wage. The law also allows a deduction from tax on the sales proceeds of a residence up to the amount expended on constructing and acquiring the real estate originally. The owner must be able to document these expenses in order to take the deduction. Of course this second provision is most useful to owners who purchased their property for its market value rather than those who privatized and spent virtually nothing to acquire their units.

3. *Russian Federation Tax on Property Transferred by Inheritance or Gift, December 12, 1991 as amended*

This law establishes the legal basis, rates and procedure for taxing property received through gift or inheritance. The law assesses varying tax rates depending upon the value of the property and the relation of the deceased to the party receiving the property through gift or inheritance. The value of property up to 850 times the minimum monthly wage is tax exempt.

4. *Law on Tax on Personal Property, December 9, 1991, as amended*

This law and the accompanying Procedure for Assessment and Payment on Taxes on Natural Persons' Property establish the legal basis and procedures for assessing and collecting personal property tax, which is a local tax. Apartments are taxed as personal property, and the property tax for buildings, premises and structures cannot exceed 1 percent of normative book value of the property; this is not an ad valorem tax.

5. *RSFSR Act No. 2005-1 State Duty Act, December 9, 1991, as amended*

This law establishes the fees which may be charged for notarization of contracts, wills and gifts. The Civil Code requires that documents transferring property rights be notarized by a public or private notary. The fees that notaries may charge are established legislatively and are generally a percentage of the value or purchase price of the property transferred, or a fixed fee based on a co-efficient times the monthly minimum wage.





XI. UTILITIES

A. Passed/Issued

1. *RF Federal Law on State Tariff Regulations for Electricity and Heat, April 4, 1995*

This law establishes the Federal Energy Commission (FEC) as an independent federal agency with a presidentially appointed director. Regional Energy Commissions (RECs) are regional agencies established at the discretion of regional authorities; they are not mandatory. RECs are independent from the FEC, but appointment of the head of the REC must be approved by the FEC. The FEC has advisory power to recommend retail utility prices which the REC may or not implement. The FEC sets wholesale electric rates from primary generators to distributors. Retail prices are regulated by the RECs. Prices for heating and hot water that are produced as a byproduct of electricity generation are regulated by the FEC and REC. Except for electricity, all utilities supplied by municipal utility enterprises are regulated directly by the municipality.

2. *RF Government Decree No. 352 on Measures to Perfect the System of Tariffs for Electricity, April 22, 1994*

This decree eliminates local administrations' ability to set electricity rates, power which they previously possessed. Electricity prices are now set by the FEC and REC.

3. *COM Decree No. 935 On the Transition to a New System of Payment for Housing and Communal Services and the Procedure for Issuing Subsidies to Citizens for Rent and Communal Services, September 22, 1993 - repealed by Government Resolution 707 (see III.C.1)*

This law provides that, except for electricity, all utilities which are supplied by municipal utility enterprises are regulated directly by the municipality.

XII. HISTORIC PRESERVATION

A. Passed/Issued

1. *Presidential Decree No. 176 On Approval of the List of Objects of Historical and Cultural Heritage at the Federal Level, February 20, 1995*

This decree calls upon the Government to compile a list of historically and culturally significant buildings to be protected under relevant historical preservation laws. The list is to include federal structures as well as structures at the subject level. Subject level governments are to approve the buildings within their jurisdiction that are on the list.

2. *Presidential Decree No. 2121 On Privatization of Local Historical and Cultural Monuments in the Russian Federation, November 26, 1994*



This decree grants subject level governments the authority to devise procedures for privatizing structures of historical and cultural significance. Privatization will only be allowed after a comprehensive national list of historically and cultural significant structures is compiled (see XII.A.1).

MOSCOW CITY LAWS

The following is an outline of the basic laws of Moscow, existing and in development, which are relevant to the housing and urban development issues addressed in the Urban Institute's technical assistance mission to Russia and the City of Moscow.

I. HOUSING AND HOUSING MAINTENANCE

A. New since last report (September 1996)

1. *Moscow Law No. 30 On Introducing Maintenance Standards for the Housing Stock in Moscow and Monitoring Their Implementation, November 13, 1996*

This law outlines the authority and function of the city housing inspections agency (Moszhilinspektzia) to implement and oversee compliance of the housing quality standards. The law establishes the City Housing Disputes Commission to resolve pre-court disputes between the inspections office and violators and lists circumstances when Mozhilinspektzia may seek judicial relief against a violator.

B. Passed/Issued

1. *Department of Engineering Support Order No. 174 On Approval of Regulations on Procedure of Competitive Selection of Enterprises of Different Forms of Ownership for Accomplishing Works on Housing Stock Maintenance and Repair, May 21, 1996*

This order contains model regulations for conducting maintenance competitions. It provides that maintenance and repair can only be performed by licensed organizations. Competitions must be held when a current maintenance contract ends or is cancelled for poor or nonperformance. Competitions are not required for newly constructed buildings. Competitions are organized by building owners; compliance with these regulations is monitored by the District Subprefect and a Contest Commission composed of representatives from several city departments and the District Subprefect.

2. *Moscow Government Decree No. 211 On the Program for Sale of Housing in 1995, March 14, 1995*

In this Decree, the Moscow Government commits to building not less than 3.1 million square meters of housing in 1995. The Decree includes appendices compiling data on housing



construction in Moscow for the past year, listing organizations that will receive housing on a priority basis and setting out procedures for sale of municipal housing in Moscow.



3. *Order of the Moscow Mayor No. 186-RM On Organizing the Work of Making "Passports" for the Moscow Housing Fund, April 13, 1995*

In the interest of providing for the maintenance and proper use of the Moscow housing fund, the improvement of the monitoring of its condition, and providing owners', tenants and renters of housing units with necessary certification of the consumer and legal characteristics of their apartments, the Mayor asked the Government of Moscow to create a draft law on a Unified Complex Program for Making Passports for the Housing Fund of Moscow. In this draft law will be listed the stages of making passports, starting in 1996, for the existing, reconstructed and newly issued housing stock. To accomplish the goals of this decree, the Mayor created a Coordinating Council led by the Department of Municipal Housing and consisting of heads of relevant Moscow departments. The make up of the Council and its work are described in two Appendices attached to the decree.

4. *Moscow Government Resolution No. 464 On Improving Control Over the Preservation and Maintenance and Use of the Housing Stock, May 23, 1995*

This resolution revamps the regulation of the Municipal Housing Inspectorate of Moscow, rechristening it "Moszhilinspektzia" (the Moscow Housing Inspectorate).

5. *Moscow Decree No. 312-RM On Improving the Organization of Management and Maintenance of the Housing Stock, June 30, 1995, Management Aspects*

This decree establishes a mandatory schedule for increasing competitive selection of housing maintenance contract in each of Moscow's ten Prefects. By December 1995, 10 percent should be by competitive bid, by the following December, 20 percent, by the next, 60 percent and finally by December 1998, 100 percent. Moscow is thus the first city to commit to a shift to competitive selection of maintenance firms. The Decree assigns the city Department of Engineering Services and the Urban Institute the responsibility for preparing documentation and training programs to meet the goals of the Decree.

6. *Moscow Decree No. 26 On Responsibility for Violation of Norms and Housing Standards on Use, Preservation and Maintenance of the Housing Stock of the City of Moscow, December 20, 1995*

This decree contains the process for notification to violators of housing code technical standards and the process for imposing penalties against violators.

II. CONDOMINIUMS

A. New since last report (September 1996)



1. *Government of Moscow Resolution No. 16 On Procedure for Implementation of the Law of the Russian Federation "On Home Owners Associations" In Moscow, January 14, 1997*

This resolution outlines the procedure city officials must follow to establish and register home owners' associations in compliance with the applicable federal law. It calls upon the Municipal Housing Committee to: 1) coordinate the formation and functioning of home owners' associations; 2) develop within 30 days a model charter for home owners' associations; 3) work with BTI to create and approve household passports during the first quarter of 1997. The resolution also provides that associations should be registered in the Moscow Registration Chamber. Condominiums (i.e. property rights) are registered with the City Property Committee for non-residential premises, and the Municipal Housing Committee for residential premises. The resolution provides that the City Land Committee must conclude land lease agreements with home owners' associations for the land under the condominium building.

B. In Development

1. *Draft Moscow Regulation On Creation and Activity of Unions of Citizens for Renovation and Construction of Residential Buildings in the City of Moscow*

This act would regulate voluntary unions of citizens to renovate or develop residential housing. The unions would be nonprofit entities which would not use local government money, but would raise financing from their own savings' and bank loans, etc. Unions would register with the local administration or municipality after holding a general meeting where a charter was approved. Together with the local government, the Union would select a residential building for renovation or files an application for a land plot for housing construction with the local executive government board. The Union would receive land on a noncompetitive basis if their application was approved.

To be a member of a union, one would have to be at least 18, permanently residing in Moscow, a Russian citizen and either on a waiting list for improved housing or live in housing which is subject to repair in accordance with a Moscow Government Resolution.

C. Passed/Issued

2. *Moscow Government Decree No. 157 on Amendments to Moscow Government Decree No. 813 On the Procedure for Managing Residential Housing Held in Collective Ownership and Transfer of Housing to the Management of Associations of Unit Owners', August 24, 1993, II.C.7, February 21, 1995*

The February 1995 amendments decree the formula for calculating the subsidy due to a housing association for maintenance and repair of buildings from the moneys formerly received by the owners' of the building [either federal or local budget money or both]. The amount is all the expenses for maintenance and repair minus revenues from *naim* rents received, lease rents received, payments for technical services, and money received from the Moscow Property



Committee (Moskomimushchestvo) for lease of any commercial property as well as other income. Nonetheless, the total subsidy per square meter must never be higher than for an analogous building under municipal or state management.



3. *Moscow Government Decree No. 398 on Amendments to Moscow Government Decree No. 813, August 24, 1993 (see II.C.7) May 3, 1995*

The May 1995 amendments permit management of the housing units of condominiums to occur without a license for management of housing, but requires that before a new "head" of a housing association takes over, he or she must pass a course on housing management.

4. *Moscow Resolution No. 464 On Improving Control over Preservation, Maintenance and Use of the Housing Stock*

This resolution establishes the authority of the inspection agency (Moszhilinspektzia) to conduct housing inspections of all residential building and related infrastructure. It establishes the scope of activities within the agency's authority, including the right to issue financial sanctions against violators of the housing norms. See also Law 26 (II.C.4).

5. *Law No. 26 On Responsibility for Violation of Norms and Housing Standards on Use, Preservation and Maintenance of the Housing Stock of the City of Moscow, December 20, 1995*

This law provides the procedure the city housing inspections agency must follow to notify housing code violators of their infractions. It also contains a process for issuing sanctions and a schedule of fees charged for various types of violations. See also Resolution No. 464 (II.C.3).

6. *Moscow Regulation On Procedure of Acceptance and Maintenance of Houses Sold in a Duly Authorized Way at an Auction Sale, November 20, 1992*

This regulation deals with newly constructed municipal housing which is to be privatized or sold by public auction. The regulation requires that housing associations be established for such buildings and that management eventually be turned over to such associations.

7. *Moscow Government Decree No. 300 No. 300 On Basic Principles for Formation and Activities of Communities of Residential Unit Owners' in Moscow, April 6, 1993*

These regulations govern the creation and operation of common ownership housing communities in privatized buildings. Membership in a registered housing association, under this Decree, is voluntary - **repealed by Moscow Government Resolution No. 16 (see II.A.1).**

8. *Moscow Government Decree No. 813 On the Procedure for Managing Residential Housing Held in Collective Ownership and Transferal of Housing to the Management of Associations of Unit Owners', August 24, 1993, amended by Moscow Government Decrees No. 157, February 21, 1995, (see II.C.1) and No. 398, May 3, 1995 (see II.C.2)*



This Decree confirms the "Regulations on the Procedure for Transfer of Residential Housing to the Management of Housing Associations and the Cooperation with Municipal Agencies on Questions of Maintenance and Repair of the Housing Stock." These Regulations were passed in the interest of independent choice of maintenance organizations and more effectively resolving issues of preservation of housing.

The Moscow Government in this Decree recommends that housing cooperatives where the members have paid off their shares and recorded their ownership of apartments reregister as housing associations. To complete the legal basis for transferring of buildings to condominium management are the Instructions for Management of Associations of Unit Owners' from November 2, 1993. These instructions detail the procedure further.

Under the Regulations, the conditions under which full management of privatized buildings will be turned over to unit owners' by the City include at least 51 percent privatization in the building and creation of a legal housing association.

9. *Moscow Government Decree No. 660 On Conducting an Experiment with Participation of Associations of Unit Owners' in Residential Housing Regarding Use Commercial Areas, August 9, 1994*

This Decree describes housing associations' property rights in the commercial premises located in their buildings. The joint owners' of these premises are the City of Moscow and the Moscow Property Committee, pt. 2.2. The relevant housing association however has a "right to participate" in management and use of these premises, if they have taken responsibility for management of their building(s), under Moscow Decree No. 813 (see III.C.5, pt. 2.2). The housing association's right to participate extends to choosing the commercial lessee and signing a lease contract with him as one of the lessor parties, pt. 3.1. The other landlord shall be the Moscow Property Committee, pt. 3.4.

III. LAND

A. Passed/Issued

1. *RF Presidential Decree No. 906 on the Second Stage of Privatization in Moscow, February 6, 1995*

This Russian Federation Presidential Decree gives Moscow the right to conduct special monetary privatization. Moscow has the right to refuse to sell land plots to enterprises, and may grant them instead long term leases of only 49 years.

2. *Order of the Moscow Mayor No. 254-RM On Additions and Explanations for the Mayoral Order No. 471-RM (On Payment for the Right to Execute a Contract for Land Lease in Moscow) of September 26, 1994, passed May 24, 1995*



This eight point Order is all that remains of a large planned draft on formation of a secondary mortgage market for land leases in Moscow. It states that while for a primary execution of a lease for a land plot, the price for execution was determined by public auction, under Decree No. 471-RM, the price for repurchase of a lease and secondary execution of the lease contract will be determined from a table updated biannually by Moskomzem, pt. 1.

Moskomzem will certify a repurchased lease with a stamp, pt. 2. Moskomzem registers contracts or other market transactions, as required by the RF Civil Code, only in regard to land lease rights obtained at public auctions or after repurchase at market price in a civil transaction with the Government of Moscow, stamped as in point 2, pt. 3. Land lease repurchase transactions are only valid, if there has been state recording of the transaction in the land book (as in point 3) and reissuance of a new land lease contract to the new land holder, pt. 4.

3. *Instruction of Moscow's Vice-Mayor No. 51-RVM Re: The Procedure for Granting and Seizure of Land in the City of Moscow, January 31, 1992 (Provisional Regulations)*

Adopts provisional regulations for the allocation of land in the City, including detailed descriptions of the role of the urban planning and architectural bodies in the land allocation process. The regulation focuses primarily on unsolicited proposals from developers, and not land auctions. This decree was promulgated pursuant to a federal grant of authority to the City that was later found unconstitutional.

4. *Order of the Moscow Vice-Mayor No. 110-RVM On the Land Leasehold As the Main Form of Legal Land Relations in the City of Moscow, March 2, 1992*

Establishes land leases as the primary form of commercial land allocation. A form lease is attached to the Order.

5. *Order of the Moscow Mayor No. 571-RM On the Bidding Procedure and Conditions of Tenders for Long Lease of Plots of Land in Moscow, December 18, 1992 (Regulations On the Commission for Land Relations of the City of Moscow)*

Enacts detailed regulations governing the auction of land by the Moscow Land Commission, the municipal agency vested with the authority to conduct land auctions and RFP's.

6. *Moscow Mayor's Directive No. 168-RM Re: The Procedure of Preparation of Normative Documents Authorizing the Development, Design and Building of Projects and the Granting of Land For Such purpose in the City of Moscow, March 19, 1993*

Describes the roles of city and district agencies in reviewing and approving applications for land use approvals and building permits; describes the required documentation for building permit applications.



7. *Order of the Moscow Mayor No. 495-RM On the Establishment of Uniform Territorial, Architectural and Town Planning Services Of the Moscow Committee for Architecture in Administrative Districts of the City, March 26, 1993*

Requires the coordination of City and district (prefecture) planning and architectural norms.

8. *Moscow Mayor's Directive No. 335-RM Re: The Approval of the Rate of Penalties Imposed By Moskomzem for the Violations of Land Legislation and City Normative Acts, May 21, 1993*

Imposes penalties for violations of the Land Code and City land use regulations.

9. *Moscow Mayor's Directive No. 336-RM On Enhancing the Responsibility for the Non-Observance of the Periods of Construction and Rehabilitation in Developing Land in the City of Moscow, May 21, 1993*

Confirms the necessity for project completion deadlines on allocated land and establishes a formula for assessing penalties if deadlines are not met.

IV. LAND AND PROPERTY REGISTRATION/CADASTRES

A. Passed/Issued

1. *Directive of the Moscow Mayor's Office No. 162-RM Regarding the Main Principles and the Procedure of Registration of Land Users On the Territory of the City of Moscow, March 17, 1993*

Directs city agencies (Moskomzem and Mosarchitectura, primarily) to accelerate a system of land use registration and prohibits issuance of city permits or other documentation for land that has not been registered.

2. *Moscow Government Decree, On Introduction in the Territory of Moscow of a Unified System of Government Registration of a Pledge and a Unified Register for Pledge Contracts, with Appendix I, Regulations on Registration of a Pledge on the Territory of Moscow, September 20, 1994*

This Decree describes the procedure for recording liens on chattel and real property in Moscow. It lists the twelve bodies of the Moscow Government responsible for participating in the Unified Registry for all pledges. Each body registers pledges depending on the object of the pledge. Where the agencies' subject matter jurisdiction seems to overlap, those interested in registering their secured transactions still have to record multiple times.

V. REALTORS, APPRAISERS, PROPERTY MANAGERS

A. Passed/Issued



1. *Moscow Decree No. 312-RM On Improving the Organization of Management and Maintenance of the Housing Stock, June 30, 1995*

In the area of housing management, this Decree authorizes the "Housing Management Demonstration" a competitive bidding program which will result in the privatization of the management functions of the Moscow District DEZ (The Department of the General Contractor), one of several Moscow public management companies. The Moscow District DEZ maintains 20-30,000 units. In the pilot competition, this municipal company will be replaced by one selected on a competitive basis.

2. *Moscow Government Decree No. 885 On Licensing Realtor Activity (Effecting Housing Transactions) in Moscow, October 4, 1994*

This decree enacts temporary regulations on licensing legal entities which aid in sale, purchase, and lease transactions in real estate.

VI. FEDERALISM/INTERGOVERNMENTAL RELATIONS

A. Passed/Issued

1. *Charter of the City of Moscow, June 28, 1995*

In this document, the Moscow City Duma embraces Moscow's simultaneous status as a city (object of local government) and as a subject of the Russian Federation. This status was granted to Moscow in the RF Law on the Status of the Capital of the Russian Federation. One example of the constitutional controversy raised is the declaration of the "dual status" of the executive branch of Moscow's government, the Government led by the Mayor of Moscow, see art. 6. The Government is simultaneously a local self-government body and a state subject government body under the Federal Constitution. These two types of entities are usually separate in most subjects of the Russian Federation. Functions of these two types of bodies listed in the RF Constitution are different and the interests *local* versus *state* which they represent frequently conflict.